6 P. C. 224, 243. This theory, which removes from the insured the burden of proving a waiver, has been ably supported. See J. S. Ewart, "Waiver in Insurance Cases," 18 HARV. L. REV. 364. Its application to a case where the breach of condition occurred, or was first known to the insurer, after the loss, and where there was no possible prejudice to the plaintiff in the defendant's failure to act, is not only novel but against authority. *Ætna Ins. Co.* v. *Mount*, 90 Miss. 642, 44 So. 162; *Goorberg* v. *Western Assurance Co.*, 150 Cal. 510, 89 Pac. 130.

INTERSTATE COMMERCE — CONTROL BY CONGRESS — FEDERAL EMPLOYERS' LIABILITY ACTS — WHETHER STATE COMPENSATION STATUTES ARE SUPERSEDED BY ACT OF 1908. — The plaintiff, a railroad employee, was injured while tamping ties on a roadbed used in interstate commerce. It was agreed that no one was negligent. He sued for recovery under the Workmen's Compensation Law of New York. *Held*, that he may recover. *Winfield* v. *New York Central & Hudson R. R. Co.*, 54 N. Y. L. J. 52, 110 N. E. 614 (N. Y. Ct. of Appeal).

For a discussion of the question whether the federal Employers' Liability Act has superseded the state compensation laws as to interstate commerce, see NOTES, p. 439.

JUDGES — GROUNDS OF DISQUALIFICATION — PREJUDICE. — Burke, one of the miners who took part in the recent Colorado coal strike, was indicted for a murder alleged to have been committed in the course of the riots resulting from the strike. He filed affidavits alleging that the trial judge had been employed as counsel by the mine owners in similar prosecutions against other strikers, and that he was a vigorous partisan of the owners and had openly declared himself hostile to the strikers and their cause, and demanding that another judge be called in to take his place at the trial. The judge held that the facts stated were not sufficient to satisfy the statutory requirement for disqualification. The affiant then applied to the Supreme Court for a writ of prohibition. *Held*, that the writ will issue. *People* v. *Hillyer*, 152 Pac. 149 (Colo. Sup. Ct.).

For a discussion of the questions involved, see NOTES, p. 430.

LANDLORD AND TENANT — ASSIGNMENT OF LEASE — ASSIGNEE'S LIABILITY FOR RENT. — The plaintiff leased premises to a tenant who convenanted not to assign without his permission. The tenant became bankrupt and the lease was assigned to the defendant who later promised the plaintiff to pay the rent in return for the latter's assent to the assignment. The defendant assigned to a third party. The plaintiff sued the defendant for rent accruing after this second assignment. *Held*, that the defendant is not liable. *78th Street & Broadway Co.* v. *Pursell Mfg. Co.*, 155 N. Y. Supp. 259 (Sup. Ct.).

The assignee of a lease ordinarily terminates his liability to the lessor for rent when he makes an assignment over, since this puts an end to the privity of estate between the two. *Consolidated Coal Co.* v. *Peers*, 166 Ill. 361, 46 N. E. 1105; *Johnson* v. *Sherman*, 15 Cal. 287; *Fagg* v. *Dobie*, 3 Y. & C. 96. See 2 TAYLOR, LANDLORD AND TENANT, 9 ed., § 452; WOODFALLS, LANDLORD AND TENANT, 19 ed., 302. However, the liability of the assignee will continue in case the lessor can base his claim against him for rent upon privity of contract. *Springer* v. *De Wolf*, 194 Ill. 218, 62 N. E. 542; *Lindsley* v. *Schnaider Brewing Co.*, 59 Mo. App. 271. See JONES, LANDLORD AND TENANT, § 462. But, of course, the lessor must show that the alleged contract was supported by proper consideration. *Dougherty* v. *Matthews*, 35 Mo. 520. In the principal case the only consideration which can be found to support the promise of the assignee to pay the rent is the lessor's assent to the assignment. And it is now well settled that an assignment of a lease made by the trustee of a bankrupt lessee